

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

JONES, et al.

Plaintiffs,

v.

VARSITY BRANDS, LLC, et al.,

Defendants.

Case No. 2:20-cv-02892-SHL-tmp

NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants hereby submit the Sixth Circuit’s decision in *Fox v. Saginaw County*, 67 F.4th 284 (6th Cir. 2023) (decided April 28, 2023) and the decision of the Eastern District of Michigan in *Norman v. FCA US, LLC*, 2023 WL 6388926 (Sept. 30, 2023) as supplemental authority in further support of their opposition to Plaintiffs’ motion for class certification (ECF No. 420).

In *Fox* (attached as Exhibit A hereto), the Sixth Circuit vacated a class certification order of the Eastern District of Michigan. Of particular relevance to ECF No. 420, in vacating class certification, the Sixth Circuit held that a class may not be certified where the proposed representative plaintiffs do not have standing to bring all of the claims that they seek to assert on behalf of the class. *Fox*, at 292-300.

In *Norman* (attached as Exhibit B hereto), citing the “clarification provided by *Fox*,” the court held that a proposed class representative could not bring “claims based in the laws of states

of which they have not been injured” and could not maintain a class action consisting of such claims. *Norman*, at *7-*8.¹

Here, Plaintiffs allegedly indirectly purchased cheer competitions and cheer apparel in Colorado and Kansas but seek to bring claims on behalf of purchasers in more than thirty other states under the laws of those other states. The submitted cases are therefore of particular relevance to Plaintiffs’ motion for class certification.

Dated: January 9, 2024

Respectfully submitted,

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¹ Since *Fox* was decided, another district court in the Sixth Circuit declined to dismiss out-of-state claims in a class action on standing grounds. *See Generations Changers Church v. Church Mutual Ins. Co.*, 2023 WL 6206152 (M.D. Tenn. Sept. 23, 2023). Although this decision was issued after *Fox* was decided, the court did not consider the implications of *Fox* on the issue of a proposed multi-state class where the proposed representative did not itself have standing under several of the state laws at issue.

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